

117TH CONGRESS
1ST SESSION

S. 519

To review the use of election security grants in the 2020 Presidential election and to prohibit future election security grants to States with unconstitutional election procedures.

IN THE SENATE OF THE UNITED STATES

MARCH 2 (legislative day, MARCH 1), 2021

Mr. HAGERTY (for himself, Mr. RUBIO, and Mr. CRAMER) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To review the use of election security grants in the 2020 Presidential election and to prohibit future election security grants to States with unconstitutional election procedures.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting the Right
5 to Organized, Transparent Elections through a Constitu-
6 tionally Trustworthy Electoral College Act (PROTECT
7 Electoral College Act)”.

1 **SEC. 2. REPORT ON 2020 GENERAL ELECTION.**

2 (a) DEFINITIONS.—For purposes of this section:

3 (1) 2016 PRESIDENTIAL ELECTION.—The term
4 “2016 Presidential election” means the general elec-
5 tion for Federal office occurring in 2016.

6 (2) 2020 PRESIDENTIAL ELECTION.—The term
7 “2020 Presidential election” means the general elec-
8 tion for Federal office occurring in 2020.

9 (3) APPLICABLE ELECTION SECURITY FUNDS.—
10 The term “applicable election security funds” means
11 the amount of grant funding provided to the State
12 by the Election Assistance Commission—

13 (A) from amounts appropriated under the
14 heading “Election Assistance Commission, Elec-
15 tion Security Grants” in the Financial Services
16 and General Government Appropriations Act,
17 2020 (Public Law 116–93); or

18 (B) from amounts appropriated under the
19 heading “Election Assistance Commission, Elec-
20 tion Security Grants” in the Coronavirus Aid,
21 Relief, and Economic Security Act (Public Law
22 116–136).

23 (4) STATE.—The term “State” has the mean-
24 ing given such term under section 901 of the Help
25 America Vote Act of 2002 (52 U.S.C. 21141), ex-

1 cept that such term shall include the Commonwealth
2 of the Northern Mariana Islands.

3 (5) UNSOLICITED MAIL-IN BALLOT.—The term
4 “unsolicited mail-in ballot” means any ballot sent to
5 a voter by mail if—

6 (A) such ballot was not specifically re-
7 quested by the voter; or

8 (B) the ballot request by the voter was ini-
9 tiated by the mailing of a ballot application not
10 specifically requested by the voter.

11 (6) UNSOLICITED MAIL-IN BALLOT PERCENT-
12 AGE.—The term “unsolicited mail-in ballot percent-
13 age” means the number of unsolicited mail-in ballots
14 distributed in the State as a percentage of the num-
15 ber of total ballots provided to voters in the State.

16 (b) REPORT.—

17 (1) IN GENERAL.—Not later than 180 days
18 after the date of the enactment of this Act, the
19 Comptroller General shall submit to Congress and
20 make publicly available a report on the 2020 Presi-
21 dential election.

22 (2) MATTERS INCLUDED.—The report sub-
23 mitted under paragraph (1) shall include the fol-
24 lowing with respect to each State: that received ap-
25 plicable election security funds:

1 (A) UNSOLICITED MAIL-IN BALLOT PER-
2 CENTAGE.—

(i) IN GENERAL.—An analysis of whether there were changes in the State's methods and processes used to verify the identification of voters who vote using mail-in ballots, including signature verification requirements, that applied with respect to the 2020 Presidential election but did not apply to the 2016 Presidential election.

21 (C) OTHER ELECTION PROCEDURES.—

22 (i) IN GENERAL.—An analysis of
23 whether the State materially altered or
24 changed its election procedures for the
25 2020 Presidential election (other than pro-

1 cedures described in subparagraph (B))
2 from the procedures in effect for the 2016
3 Presidential election.

4 (ii) RELEVANT AUTHORITY FOR
5 CHANGES.—If the Comptroller General de-
6 termines that there were changes in the
7 election procedures described in clause (i),
8 the Comptroller General shall provide a de-
9 scription of any authority (including any
10 statutory authority), action, or directive
11 that led to such change.

12 (D) MAIL-IN BALLOT COLLECTION.—

13 (i) IN GENERAL.—An analysis of
14 whether there were specific, documented
15 allegations of a person other than a voter
16 or a voter's family member or caregiver
17 collecting or returning the voter's com-
18 pleted ballot in the 2020 Presidential elec-
19 tion.

20 (ii) RELEVANT AUTHORITY FOR COL-
21 LECTION.—If the Comptroller General de-
22 termines that there were specific, docu-
23 mented allegations described in clause (i),
24 the Comptroller General shall provide a de-
25 scription of any authority (including any

1 statutory authority), action, or directive
2 permitting such collection or return.

3 (E) OBSERVATION OF BALLOT COUNT-
4 ING.—An analysis of whether the State has a
5 statute providing for third-party observation of
6 ballot counting, and if so, whether there were
7 specific, documented instances in connection
8 with the 2020 Presidential election in which the
9 State is alleged to have failed to comply with
10 such statute.

11 (F) FAILURE TO ENFORCE.—An analysis
12 of whether there were specific, documented in-
13 stances in connection with the 2020 Presi-
14 dential election in which the State allegedly
15 failed to enforce one or more of its election
16 statutes (other than a statute described in sub-
17 paragraph (E)).

18 (G) USE OF APPLICABLE ELECTION SECU-
19 RITY FUNDS.—In the case of a State that re-
20 ceived applicable election security funds, an
21 analysis of—

22 (i) whether such funds were used to
23 make expenditures with respect to the
24 2020 Presidential election;

(ii) whether such funds were used in connection with any activity carried out pursuant to an authority, action, or directive described in subparagraph (A)(ii), (B)(ii), (C)(ii), or (D)(ii); and

(iii) whether the State complied with all statutory and other conditions imposed in connection with the receipt of such funds.

(H) SUBSEQUENT STATE ACTIONS.—A description of any of the following actions taken by the State legislature:

(i) The passage of a resolution expressing an opinion on, or the submission to Congress or the Comptroller General of a communication relating to, the items described in subparagraphs (A) through (G).

(ii) The enactment, after the completion of the 2020 Presidential election, of legislation regarding any authority, action, or directive described in subparagraph (A)(ii), (B)(ii), (C)(ii), or (D)(ii) or any failure described in subparagraph (E) or (F).

1 **SEC. 3. TEMPORARY SUSPENSION OF, AND REQUIREMENTS**

2 **FOR, FUTURE ELECTION ASSISTANCE**

3 **GRANTS.**

4 (a) IN GENERAL.—Subtitle D of title II of the Help
5 America Vote Act of 2002 (52 U.S.C. 20901 et seq.) is
6 amended by adding at the end the following new part:

7 **“PART 7—REQUIREMENTS FOR ELECTION
8 ASSISTANCE**

9 **“SEC. 297. SUSPENSION OF ELECTION ASSISTANCE.**

10 “(a) IN GENERAL.—Notwithstanding any other pro-
11 vision of law, no grant may be awarded under this Act
12 before July 1, 2022.

13 “(b) SUSPENSION OF PREVIOUS GRANTS.—No State
14 may expend Federal funds provided under this Act before
15 the date of the enactment of this section before July 1,
16 2022.

17 **“SEC. 298. REQUIREMENTS FOR FUTURE ELECTION ASSIST-
18 ANCE.**

19 “(a) IN GENERAL.—Notwithstanding any other pro-
20 vision of law, no State may receive any grant awarded
21 under this Act after the date of the enactment of this sec-
22 tion unless the State has certified by resolution adopted
23 by the State legislature, as a condition of receiving the
24 grant, that it is in compliance with the requirements of
25 subsection (b).

26 “(b) REQUIREMENTS.—

1 “(1) IN GENERAL.—A State satisfies the re-
2 quirements of this section if, in connection with any
3 election for Federal office—

4 “(A) the methods and processes used by
5 the State to verify the identification of voters
6 who vote using mail-in ballots are specifically
7 set forth in statute;

8 “(B) except as specifically provided by
9 statute—

10 “(i) the State does not use unsolicited
11 mail-in balloting; and

12 “(ii) the State does not permit per-
13 sons other than the voter or the voter’s
14 family members or caregivers to return a
15 voter’s completed ballot;

16 “(C) for any election after the last day
17 that the public health emergency declared by
18 the Secretary of Health and Human Services
19 under section 319 of the Public Health Service
20 Act (42 U.S.C. 247d) on January 31, 2020,
21 with respect to COVID–19, is in effect, the
22 State uses all voting procedures in place as of
23 January 1, 2020 (except as modified by State
24 statutes applying to elections after such date);

1 “(D) in the case of State that has a law
2 providing for third-party observation of ballot
3 counting, such ballot observation law is strictly
4 followed in all instances;

5 “(E) the State complies with all require-
6 ments under title III; and

7 “(F) the State has taken documented, af-
8 firmative measures to address—

9 “(i) any prior failure to satisfy the re-
10 quirements of subparagraphs (A) through
11 (E) that is identified by the State legisla-
12 ture in a resolution (or other similar com-
13 munication submitted to Congress and the
14 Comptroller General); or

15 “(ii) any prior specific, documented
16 instance in which the State—

17 “(I) failed to enforce one or more
18 of its election statutes; or

19 “(II) materially altered or
20 changed its election procedures with-
21 out a corresponding state statutory
22 enactment.

23 “(2) UNSOLICITED MAIL-IN BALLOTTING.—For
24 purposes of paragraph (1)(B), the term ‘unsolicited

1 mail-in balloting' means the process of sending bal-
2 lots to a voter by mail if—

3 "(A) such ballot was not specifically re-
4 quested by the voter; or

5 "(B) the ballot request by the voter was
6 initiated by the mailing of a ballot application
7 not specifically requested by the voter.

8 **"PART 8—PROHIBITION ON USE OF FUNDS**

9 **"SEC. 299. PROHIBITION ON USE OF FUNDS.**

10 "Notwithstanding any other provision of law, any
11 amounts provided under this Act shall not be used in fur-
12 therance of any election procedure that is not expressly
13 set forth in a statute enacted by the State legislature.".

14 (b) CONFORMING AMENDMENT.—The table of con-
15 tents in section 1(b) of the Help America Vote Act of 2002
16 is amended by inserting after the item relating to section
17 296 the following:

"PART 7—REQUIREMENTS FOR ELECTION ASSISTANCE

"Sec. 297. Suspension of election assistance.

"Sec. 298. Requirements for future election assistance.

"PART 8—PROHIBITION ON USE OF FUNDS

"Sec. 299. Prohibition on use of funds."

